

Rec'd PCT/PTO 10 OCT 2002

#6



PATENT APPLICATION  
Mo-6996  
LeA 33,955

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF )  
GÜNTHER EBERZ ET AL )  
SERIAL NUMBER: 10/069,353 )  
FILED: FEBRUARY 22, 2002 )  
TITLE: NUCLEIC ACIDS WHICH CODE )  
FOR THE ENZYME ACTIVITIES )  
OF THE SPINOSYN BIOSYNTHESIS )

*Copy*

SUBMISSION OF MISSING PARTS OF APPLICATION UNDER 37 CFR 1.53

Attention: Box Missing Parts  
Assistant Commissioner for Patents  
Washington, D.C. 20231  
Sir:

Enclosed is a Combined Declaration and Power of Attorney, executed by all of the inventors, to complete the subject application which was filed on February 22, 2002.

Please charge the fee for filing the Declaration on a date later than the filing date, \$130.00, to Deposit Account Number 13-3848. This paper, submitted in triplicate, is also authorization to charge any insufficiency of fees which may be required by this paper to Deposit Account Number 13-3848.

*Bayr sent 4/5/02*

*Copy of Declaration attached Spec*

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an enveloped addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on 04/05/02

Date

John E. Mrozinski, Jr. Reg. No. 46,179

Name of applicant, assignee or Registered Representative

*John E. Mrozinski, Jr.*

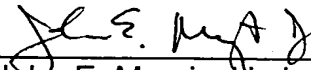
Signature

April 5, 2002

Date

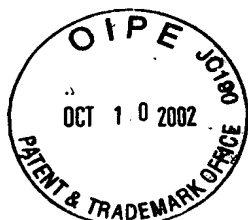
Having now complied with all of the requirements under 37 CFR 1.53(d),  
Applicants request that the file be forwarded for examination.

Respectfully submitted,

By   
John E. Mrozinski, Jr.  
Attorney for Applicants  
Reg. No. 46,179

Bayer Corporation  
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s:/sr/jem0023



DT06 Rec'd PCT/PTO

10 OCT 2002

PC#6

PATENT APPLICATION

Mo6996

LeA 33,955

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICATION OF )  
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GÜNTHER EBERZ ET AL )  
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SERIAL NUMBER: 10/069,353 )  
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FILED: FEBRUARY 22, 2002 )  
 )  
TITLE: NUCLEIC ACIDS WHICH CODE FOR )  
THE ENZYME ACTIVITIES OF THE )  
SPINOSYN BIOSYNTHESIS )

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER  
35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE  
(DO/EO/US)**

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

This paper is in response to a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US), dated May 7, 2002 (hereinafter "the May 7, 2002 Notification"). A two month period for response was set in the May 7, 2002 Notification, bringing a response to be due on or before July 7, 2002. A three month petition for extension of time to respond to the May 7, 2002 Notification and fee are being filed concurrently herewith, bringing a response to be due on or before October 7, 2002.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an enveloped addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 10/7/02

Date

Raymond J. Harmuth, Reg. No. 33,896

Name of applicant, assignee or Registered Representative

Signature

October 7, 2002

Date

With respect to fees, the Commissioner is authorized to charge the three month extension fee, the \$130 English translation surcharge and any other fees necessary to complete the filing of this application to Deposit Account No. 13-3848.

Also enclosed herewith is a copy of the May 7, 2002 Notification as required by the May 7, 2002 Notification itself.

The May 7, 2002 Notification stated that the translation of the application in to the English language previously provided, was defective because Figure 6 was missing.

In response, Applicants hereby provide the requested Figure 6.

The May 7, 2002 Notification also requested the processing fee for providing the translation of the application and/or the Annexes later than the appropriate 30 months from the priority date.

In response, please see the fee authorization above regarding authorization to charge any necessary fees to Deposit Account 13-3848.

The May 7, 2002 Notification stated that the oath or declaration of the inventors was missing.

In response, Applicants point out that on April 5, 2002, a Submission of Missing Parts of Application Under 37 C.F.R. 1.53 (hereinafter "the April 5, 2002 Submission") was filed in this case submitting a fully executed Declaration in accordance with 37 C.F.R. Section 1.497. It is believed that this May 7, 2002 Notification and the April 5, 2002 Submission crossed each other in the mails, and that this matter has therefore been addressed by Applicants. However, as a convenience to the Examiner, Applicants attach herewith a copy of the April 5, 2002 Submission and the Declaration.

The May 7, 2002 Notification also states that the nucleotide or amino acid sequence contained in the application did not comply with the requirements for a disclosure as set forth in 37 C.F.R. 1.821-1.825 because the computer readable form was not submitted as required by 37 C.F.R. Section 1.821 (e).

In response, Applicants hereby submit a substitute copy of the nucleotide or amino acid sequence contained in this application. It is being submitted herewith in both paper copy and in computer readable form on a 3.5 inch computer diskette. The attached diskette is labeled in accordance with 37 C.F.R. 1.824(a)(6) and is

submitted in the American Standard Code for Information Interchange (ASCII) text.

The paper copy differs from that originally filed with the case only in that what appears in the German language in the original sequence has been changed to its English language equivalent (e.g. line 120 has been changed from the German language to the English language).

Herein below is the necessary statement that the content of the Sequence Listing information recorded in computer readable form is identical to the written Sequence Listing as required by 37 C.F.R. Section 1.821(g). Because this submission is made in fulfilling the requirement under 37 C.F.R. 1.821(g), also included herein below is a statement that the submission includes no new matter.

**Statement that Sequence Listing and Computer Readable Copy Thereof Are the Same And That Papers Submitted Includes No New Matter**

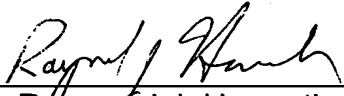
I, Raymond J. Harmuth, Esq., Registration No. 33,896 hereby state:

1. That I have been appointed an attorney of record in this case in the Declaration filed in this case on April 5, 2002;
2. That the substitute computer readable form being submitted concurrently herewith is identical to the written substitute Sequence Listing also being submitted concurrently herewith;
3. That the amendments made in the substitute sheets of the Sequence Listing being submitted herewith are supported in the application, as filed, and that the substitute sheets of the Sequence Listing do not include new matter.

**Conclusion**

Having complied with all of the outstanding requirements, Applicants request that the file be forwarded for examination.

Respectfully submitted,

By   
Raymond J. Harmuth  
Attorney for Applicants  
Reg. No. 33,896

Bayer Corporation  
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/jme/RJH0067

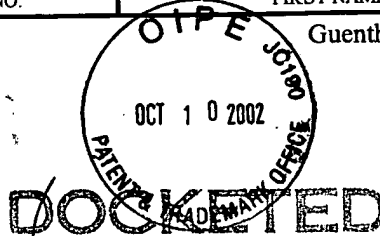
Rec'd PCT/PTO 10 OCT 2002 #6



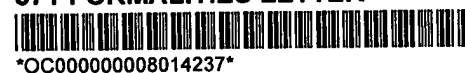
UNITED STATES PATENT AND TRADEMARK OFFICE

 Commissioner for Patents, Box PCT  
 United States Patent and Trademark Office  
 Washington, D.C. 20231  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/069,353	Guenther Eberz	Mo6996/LeA

 John E Mrozinski Jr  
 Bayer Corporation  
 100 Bayer Road  
 Pittsburgh, PA 15205-9741

 DOCKETED  
 BY RL-5/20/02  
 DATE 7/7/02-Complete  
 APPROVED \_\_\_\_\_

INTERNATIONAL APPLICATION NO.	
PCT/EP00/08013	
I.A. FILING DATE	PRIORITY DATE
08/17/2000	08/27/1999

 CONFIRMATION NO. 8113  
 371 FORMALITIES LETTER


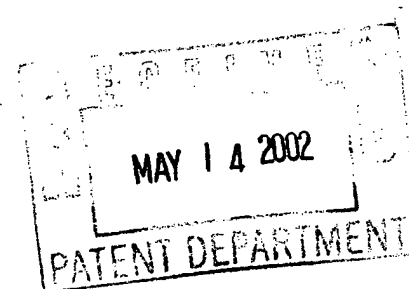
\*OC000000008014237\*

Date Mailed: 05/07/2002

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Priority Document
- Biochemical Sequence Listing
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- English Translation of the IA
- Preliminary Amendments
- Request for Immediate Examination



The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Translation of the application into English. The current translation of the application into English is defective as described below.
  - Figure 6 of 7 is missing from the english translation.
- Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 30 months from the priority date (37 CFR 1.492(f)).
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE**

**OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

The following items **MUST** be furnished within the period set forth below:

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
  - A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).
  - **APPLICANT MUST PROVIDE:**
    - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
  - For Rules Interpretation, call (703) 308-4216
  - To Purchase PatentIn Software, call (703) 306-2600
  - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)

#### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$130** for a Large Entity:

- **\$130** for English translation surcharge required.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

10/16/2002 SNAJARRO 00000058 133848 10069353

01 FC:1618 130.00 CH

JOHN L ANDERSON

Telephone: (703) 308-9116

#### PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/069,353	PCT/EP00/08013	Mo6996/LeA